

Appl. No. 09/227,593
Amendment dated October 6, 2003
Reply to Office Action of May 5, 2003

REMARKS

Applicants have received and reviewed an Office Action dated May 5, 2003. By way of response, Applicants have cancelled claims 32, 34, 38, 55, 63, 71, 73, 77, 94 and 102 without prejudice, amended claims 31, 39, 44-45, 50, 83-84, 89, 103, and added new claims 109-120. No new matter is presented. Claims 31, 33, 35-37, 39-40, 42-54, 56-62, 64-65, 67-70, 72, 74-76, 78-79, 81-93, 95-101, 103-104, and 106-120 are pending. Applicants submit that the pending claims are supported by the specification.

Each of newly presented claims 109-120 include the subject matter of a previously pending independent claim plus the subject matter of a dependent claim that was not rejected as obvious. Therefore these claims are allowable and include no new subject matter. Support for these claims can be found throughout the specification.

For the reasons given below, Applicants submit the amended claims are in condition for allowance and notification to that effect is earnestly solicited.

Petition for Extension of Time

A two-month petition for extension of time is necessary to provide for timeliness of the response. Such an extension is requested, extending the time for response from August 5, 2003 to November 5, 2003 which was a Sunday, extending the time for response to October 6, 2003.

Obviousness-Type Double Patenting Rejection

The Examiner rejected claims 31-40, 42-65, 67-79, 81-104, and 106-108 under the judicially created doctrine of obviousness-type double patenting over claims 1-34 of U.S. Patent No. 6,525,005. Applicants respectfully traverse this rejection.

Nonetheless, Applicants submit herewith a terminal disclaimer to overcome this rejection. Applicants do this, not to acquiesce to the rejection, but solely to advance prosecution of the present application.

Accordingly, Applicants respectfully request withdrawal of this rejection.

Appl. No. 09/227,593
Amendment dated October 6, 2003
Reply to Office Action of May 5, 2003

Rejection of Claims Under § 103(a)

The Examiner rejected claims 31-36, 38-40, 42, 45-60, 63-65, 67, 70-75, 77-79, 81, 84-99, 102-104, and 106 under 35 U.S.C. § 103(a) as obvious over Person Hei (U.S. Patent No. 5,723,418) in view of Liu (U.S. Patent No. 5,244,589). Although this rejection has not been raised for the newly presented claims, it is discussed insofar as it might apply. Applicants respectfully traverse this rejection.

Applicants have previously brought to the Examiner's attention unexpected results established by the experiments illustrated in Figure 2 and by experiments reported in a Declaration submitted with the last response. In particular, the Declaration submitted with the last response established unexpected results using a broad range of amounts of ingredients.

The Examiner suggested that the claims would be commensurate in scope with the unexpected results, if they included amounts of the ingredients and also a chelating agent. Previously pending independent claims 31, 45, 50, 70, 84, and 89 have been amended to recite amounts of ingredients and the presence of chelating agent, as suggested by the Examiner.

Accordingly, each of independent claims 31, 45, 50, 70, 84, and 89, and their dependent claims, relate to compositions for which unexpected results have been established. Therefore, these claims are free of this obviousness rejection.

The Newly Presented Claims

Newly presented claim 109 includes the subject matter of previously pending independent claim 31 and of dependent claim 61. Claims 61 and 37 were not subject to this prior art rejection. Therefore, newly presented claim 109 is allowable.

Newly presented claim 110 includes the subject matter of previously pending independent claim 31 and of dependent claim 68. Claim 68 was not subject to this prior art rejection. Therefore, newly presented claim 110 is allowable.

Newly presented claim 111 includes the subject matter of previously pending independent claim 45 and of dependent claim 61. Claim 61 was not subject to this prior art rejection. Therefore, newly presented claim 111 is allowable.

Appl. No. 09/227,593

Amendment dated October 6, 2003

Reply to Office Action of May 5, 2003

Newly presented claim 112 includes the subject matter of previously pending independent claim 45 and of dependent claim 68. Claim 68 was not subject to this prior art rejection. Therefore, newly presented claim 112 is allowable.

Newly presented claim 113 includes the subject matter of previously pending independent claim 50 and of dependent claim 61. Claim 61 was not subject to this prior art rejection. Therefore, newly presented claim 113 is allowable.

Newly presented claim 114 includes the subject matter of previously pending independent claim 50 and of dependent claim 68. Claim 68 was not subject to this prior art rejection. Therefore, newly presented claim 114 is allowable.

Newly presented claim 115 includes the subject matter of previously pending independent claim 70 and of dependent claim 100. Claims 76 and 100 were not subject to this prior art rejection. Therefore, newly presented claim 115 is allowable.

Newly presented claim 116 includes the subject matter of previously pending independent claim 70 and of dependent claim 82. Claim 82 was not subject to this prior art rejection. Therefore, newly presented claim 116 is allowable.

Newly presented claim 117 includes the subject matter of previously pending independent claim 84 and of dependent claim 100. Claim 100 was not subject to this prior art rejection. Therefore, newly presented claim 117 is allowable.

Newly presented claim 118 includes the subject matter of previously pending independent claim 84 and of dependent claim 107. Claim 107 was not subject to this prior art rejection. Therefore, newly presented claim 118 is allowable.

Newly presented claim 119 includes the subject matter of previously pending independent claim 89 and of dependent claim 100. Claim 100 was not subject to this prior art rejection. Therefore, newly presented claim 119 is allowable.

Newly presented claim 120 includes the subject matter of previously pending independent claim 84 and of dependent claim 107. Claim 107 was not subject to this prior art rejection. Therefore, newly presented claim 120 is allowable.

Appl. No. 09/227,593
Amendment dated October 6, 2003
Reply to Office Action of May 5, 2003

Conclusion

Accordingly, based on the foregoing differences, Applicants respectfully submit that the cited references neither teach nor suggest the presently claimed compositions and methods, and withdrawal of this rejection is respectfully requested.

Summary

In summary each of claims 31, 33, 35-37, 29-40, 42-54, 56-62, 64-65, 67-70, 72, 74-75, 78-79, 81-93, 95-101, 103-104, and 106-120 are in condition for allowance, and early notice to that effect is earnestly solicited.

The Examiner is invited to contact Applicants' undersigned representative at the telephone number below, if the Examiner believes that doing so will advance prosecution of this application.

Respectfully submitted,

Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, Minnesota 55402-0903
612.332.5300

Date: Oct 6, 2003

Mark T. Skoog
Mark T. Skoog
Reg. No. 40,178

23552

PATENT TRADEMARK OFFICE